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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/591,348	FARR ET AL.
	Examiner	Art Unit	
	MICHELLE OWYANG	2168	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>24 November 2008</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-13,15-24 and 26-30</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-13,15-24 and 26-30</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☒ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

       1. ☐ Certified copies of the priority documents have been received.

       2. ☐ Certified copies of the priority documents have been received in Application No. _____.

       3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>11/24/2008</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____

DETAILED ACTION

1.   The action is responsive to the Applicant's amendment filed on 11/24/2008, with claims

1-13, 15-24, 26-27 amended, and claims 14, 25 cancelled, and claims 28-30 newly added.

Claims 1-13, 15-24, 26-30 are pending in this application.

Information Disclosure Statement

2.   The information disclosure statement filed 11/24/2008 fails to comply with the provisions

of 37 CFR 1.97, 1.98 and MPEP § 609 because the listed U.S. application number does not

correspond to the listed inventor name, and the listed application is not relevant to the pending

application. It has been placed in the application file, but the information referred to therein has

not been considered as to the merits. Applicant is advised that the date of any re-submission of

any item of information contained in this information disclosure statement or the submission of

any missing element(s) will be the date of submission for purposes of determining compliance

with the requirements based on the time of filing the statement, including all certification

requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Specification

3.   The specification is objected to as failing to provide proper antecedent basis for the

following claimed subject matter, "receiving rating data from said particular user relating to data

items provided to the user" recited in claims 1, 15, 27-29.

See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

Claim Objections

4.   The following claims are objected to for lack of antecedent basis:

    a.   "the servicing step", claims 2, 16, 27;

    b.   "the available data items", claim 2,16;

    c.   "the requesting user", claim 3;

    d.   "the request", claim 6;

    e.   "the time", claims 9, 23;

    f.   "the stored content items", claim 10;

    g.   "the service level value", claim 12;

    h.   "the rating user", claim 12;

    i.   "the which first data item", claim 22;

    j.   "the difference", claim 22.

5.   Claim 24 is objected to because of the following informalities: it is suggested to change "...steps: - permit..." to "...steps: permit...".

Claim Rejections - 35 USC § 101

6.   In view of the claimed amendment filed on 11/24/2008, the claim rejections made under 35 USC 101 as set forth in the previous office action are hereby withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7.   Claims 1-13, 15-24, and 26-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 1, 15, 27-30, "receiving rating data from said particular user relating to data items provided to the users" is not clearly understood rendering the claims indefinite. According to the specification, the rating is given by the users to the provided data, see Page 9, lines 15-18; since "the particular user" is recited as the provider who provides data items to the users, it is unclear how "the particular user" provides the rating data, which is recited as "receiving rating data from said particular user relating to data items provided to the users" in the claims.

With respect to claim 15, "data receiving means arranged in use to receive: <u>data items or from a particular user</u> for provision upon request to users (lines 2-3)" is not clearly understood rendering the claim indefinite. It is unclear whether it is referred to "data receiving means arranged in use to receive: <u>data items from a particular user for provision</u>" or "data receiving means arranged in use to receive: <u>from a particular user for provision</u>". In addition, "data receiving means arranged in user to receive: (line 12)" is not clearly understand rendering the claim indefinite. It is unclear whether it includes additional limitations or not.

With respect to claims 3 and 17, "the requesting user" is not clearly understood rendering the claims indefinite. It is unclear whether "the requesting user" is referred to "the particular user" or "the users" recited in claims 1 and 15, respectively.

Any claim not specifically addressed, above, is being rejected as incorporating the deficiencies of a claim which it depends.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8.   Claims 1-13, 15-24, 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Gupta et al, "A Frequent-Sharer Program for Peer-to-Peer Systems", hereinafter Gupta, in view

of Moskowitz et al. (Pub No. US 2003/009570 A1), hereinafter Moskowitz.

        Gupta is cited by the Applicant in the IDS and also cited by the Examiner in the previous

office action.

        With respect to claim 1, Gupta discloses a data provisioning method *(frequent sharer*

program for peer to peer systems, peer to peer system associates with data provision, Page 1,

Title), comprising the steps:

        receiving data items from a particular user for provision to users *(receiving contribution*

from the user, the contribution association with data item associate with access, Page 2, right

Col. Part III, Accounting Component, lines 5-6);

        storing the data items for provision to the user *(the account component keeps track of the*

contribute made for data provision to user, the contribute made associates with the data items

and the data defining access to the data item, Page 1, right Col. Part II, lines 3-4);

        maintaining, for at least one user, one or more users, respective service level data usable

to determine a level of service to be provided to the users *(maintain the level of service provide*

to the user, e.g. basic, enhanced, premium, Page 1, right Col. part II, lines 13-21, Fig 1 & 4);

        changing the respective service level data for the users from which data items were

received in dependence upon received rating data relating to the received data items *(changing*

the level of service from basic to enhanced or premium based on the pointes accumulated, the

points accumulated associate with rating, Page 2, right Col. Part III, Accounting Component,

lines 6-7, Fig 4); and

providing service to said particular user in dependence on the service level data for said

particular user *(provide the service to the user based on the level of service, Page 4, left Col.*

lines 14-27, Fig 4).

Gupta does not explicitly disclose

receiving rating data from said particular user relating to data items provided to the users.

However, Moskowitz discloses receiving rating data from said particular user relating to

data items provided to the users *(reviewers are assigned rating by based upon other members,*

the reviewer and members are correspond to the users relating to the data items, [0053], lines

18-30).

It would have been obvious to one skilled in the art at the time of the invention to modify

the user rating techniques of Moskowitz in the data provision method of Gupta in order to

improve communication management within a peer to per network data processing system

(Moskowitz, [0008]).

With respect to claim 15, Gupta discloses a data provisioning system *(frequent sharer*

program for peer to peer systems, peer to peer system associates with data provision, Page 1,

Title), comprising:

data receiving means arranged in use to receive *(account and award components in the*

p2p network, it would haven obvious that there are data receiving means for tracking data, page

2, Part III, Details of Point System):

i) data items or from a particular user for provision upon request to users *(the account component keeps track of the contribute made for data provision to user, the contribute made associates with the data items and the data defining access to the data item, Page 1, right Col. Part II, lines 3-4)*; and

i) the data items for provision to the users *(the account component keeps track of the contribute made for data provision to user, the contribute made associates with the data items and the data defining access to the data item, Page 1, right Col. Part II, lines 3-4)*; and

ii) for at least one user, respective service level data usable to determine a level of service to be provided to the users *(maintain the level of service provide to the user, e.g. basic, enhanced, premium, Page 1, right Col. part II, lines 13-21, Fig 1 & 4)*;

data receiving means arranged in use to receive *(account and award components in the p2p network, it would haven obvious that there are data receiving means for tracking data, page 2, Part III, Details of Point System)*:

a processor arranged in use to perform the following steps *(it is obvious that a processor is in the sharer program for the peer to peer system, Page 1, left Col. Part I, lines 1-10)*:

i) change the respective service level data for the users from which data items were received in dependence upon received rating data relating to the received data items *(changing the level of service from basic to enhanced or premium based on the pointes accumulated, the points associate with rating, Page 2, right Col. Part III, Accounting Component, lines 6-7, Fig 4)*; and

ii) provide service to said particular user in dependence on the service level data for said

particular user *(provide the service to the user based on the level of service, Page 4, left Col.*

lines 14-27, Fig 4).

Gupta does not explicitly disclose

rating data from the particular user relating to data items provided to the users;

a data store storing.

However, Moskowitz discloses rating data from the particular user relating to data items

provided to the users *(reviewers are assigned rating by based upon other members, the reviewer*

and members are correspond to the users relating to the data items, [0053], lines 18-30);

a data store storing *(Fig 1, 106, Storage)*.

It would have been obvious to one skilled in the art at the time of the invention to modify

the user rating techniques of Moskowitz in the data provision system of Gupta in order to

improve communication management within a peer to per network data processing system

(Moskowitz, [0008]).

With respect to claim 27, Gupta discloses a data provisioning method *(frequent sharer*

program for peer to peer systems, peer to peer system associates with data provision, Page 1,

Title), comprising the steps:

receiving data items from a particular user for provision to users *(receiving contribution*

from the user, the contribution association with data item associate with access, Page 2, right

Col. Part III, Accounting Component, lines 5-6);

storing the data items for provision to the users *(the account component keeps track of the contribute made for data provision to user, the contribute made associates with the data items and the data defining access to the data item, Page 1, right Col. Part II, lines 3-4)*;

maintaining, for at least one user, respective service level data usable to determine a level of service to be provided to the users *maintain the level of service provide to the user, e.g. basic, enhanced, premium, Page 1, right Col. part II, lines 13-21, Fig 1 & 4)*;

changing the respective service level data for the users from which data items were received in dependence upon received rating data relating to the received data items *(changing the level of service from basic to enhanced or premium based on the pointes accumulated, the points accumulated associate with rating, Page 2, right Col. Part III, Accounting Component, lines 6-7, Fig 4)*; and

providing service to said particular user in dependence on the service level data for said particular user *(provide the service to the user based on the level of service, Page 4, left Col. lines 14-27, Fig 4)*,

wherein each data item has a property having a value *(data associates with the point, and the point correspond to the value, Page 1, right Col. Part II, lines 3-10)*, and the service level data comprises a content access value relating to the property *(the service level associates with earned points, the service level corresponds to the access value, Page 1, right Col. Part II, lines 12-19, Fig 4)*, wherein the servicing step comprises determining a sub-set of the data items in dependence on the respective values *(the service provide associates with the data is depend on points collected based on the award component, Page 4, left Col, lines 14-27, Fig 4,)*, and

providing the sub-set to said particular user *(data associates with the corresponding service level*

is provided to the user, Page 4, left Col., lines 14-17).

Gupta does not explicitly disclose

receiving rating data from said particular user relating to data items provided to the users.

However, Moskowitz discloses receiving rating data from said particular user relating to

data items provided to the users *(reviewers are assigned rating by based upon other members,*

the reviewer and members are correspond to the users relating to the data items, [0053], lines

18-30).

It would have been obvious to one skilled in the art at the time of the invention to modify

the user rating techniques of Moskowitz in the data provision method of Gupta in order to

improve communication management within a peer to per network data processing system

(Moskowitz, [0008]).

With respect to claim 28, Gupta discloses a data provisioning method *(frequent sharer*

program for peer to peer systems, peer to peer system associates with data provision, Page 1,

Title), comprising the steps:

storing the data defining access to data items for provision to the users *(the account*

component keeps track of the contribute made for data provision to user, the contribute made

associates with the data items and the data defining access to the data item, Page 1, right Col.

Part II, lines 3-4);

maintaining, for one or more users, respective service level data usable to determine a
level of service to be provided to the users *(maintain the level of service provide to the user, e.g.
basic, enhanced, premium, Page 1, right Col. part II, lines 13-21, Fig 1 & 4)*;

changing the respective service level data for the users from which data defining access
to data items were received in dependence upon received rating data relating to the received data
defining access to data items *(changing the level of service from basic to enhanced or premium
based on the pointes accumulated, the points accumulated associate with rating, Page 2, right
Col. Part III, Accounting Component, lines 6-7, Fig 4)*; and

providing service to said particular user in dependence on the service level data
for said particular user*(provide the service to the user based on the level of service, Page 4, left
Col. lines 14-27, Fig 4)*.

Gupta does not explicitly disclose

receiving data defining access to data items from a particular user for provision to
users;

receiving rating data from said particular user relating to the data defining access to the
data items provided to the users.

However, Moskowitz discloses receiving data defining access to data items from a
particular user for provision to users *(members of the group define whether other user can access
the data, [0046], lines 4-7)*;

receiving rating data from said particular user relating to the data defining access to the
data items provided to the users *(reviewers are assigned rating by based upon other members,*

the reviewer and members are correspond to the users relating to the data items, [0053], lines

18-30).

It would have been obvious to one skilled in the art at the time of the invention to modify

the user rating techniques of Moskowitz in the data provision method of Gupta in order to

improve communication management within a peer to per network data processing system

(Moskowitz, [0008]).

With respect to claim 29, Gupta discloses a data provisioning system *(frequent sharer*

program for peer to peer systems, peer to peer system associates with data provision, Page 1,

Title), comprising:

data receiving means arranged in use to receive *(account and award components in the*

p2p network, it would haven obvious that there are data receiving means for tracking data, page

2, Part III, Details of Point System):

i) the data defining access to data items for provision to the users *(the account component*

keeps track of the contribute made for data provision to user, the contribute made associates

with the data items and the data defining access to the data item, Page 1, right Col. Part II, lines

3-4); and

ii) for at least one user, respective service level data usable to determine a level of service

to be provided to the users *(maintain the level of service provide to the user, e.g. basic,*

enhanced, premium, Page 1, right Col. part II, lines 13-21, Fig 1 & 4);

a processor arranged in use to perform the following steps *(it is obvious that a processor*

is in the sharer program for the peer to peer system, Page 1, left Col. Part I, lines 1-10):

i) change the respective service level data for the users from which data defining access

to data items were received in dependence upon received rating data relating to the received data

defining access to data items *(changing the level of service from basic to enhanced or premium*

based on the pointes accumulated, the points associate with rating, Page 2, right Col. Part III,

Accounting Component, lines 6-7, Fig 4); and

ii) provide service to said particular user in dependence on the service level data for said

particular user *(provide the service to the user based on the level of service, Page 4, left Col.*

lines 14-27, Fig 4).

Gupta does not explicitly disclose

data defining access to data items from a particular user for provision upon request to

users; and

rating data from the particular user relating to the data defining access to data items

provided to the users; and

a data store storing.

However, Moskowitz discloses data defining access to data items from a particular user

for provision upon request to users *(members of the group define whether other user can access*

the data, [0046], lines 4-7); and

rating data from the particular user relating to the data defining access to data items

provided to the users *(reviewers are assigned rating by based upon other members, the reviewer*

and members are correspond to the users relating to the data items, [0053], lines 18-30); and

a data store storing *(Fig 1, 106, Storage)*.

It would have been obvious to one skilled in the art at the time of the invention to modify the user rating techniques of Moskowitz in the data provision method of Gupta in order to improve communication management within a peer to per network data processing system *(Moskowitz, [0008])*.

With respect to claim 30, Gupta discloses a data provisioning method *(frequent sharer program for peer to peer systems, peer to peer system associates with data provision, Page 1, Title)*, comprising the steps:

storing the data defining access to data items for provision to the users *(the account component keeps track of the contribute made for data provision to user, the contribute made associates with the data items and the data defining access to the data item, Page 1, right Col. Part II, lines 3-4)*;

maintaining, for at least one user respective service level data usable to determine a level of service to be provided to the users *(maintain the level of service provide to the user, e.g. basic, enhanced, premium, Page 1, right Col. part II, lines 13-21, Fig 1 & 4)*;

changing the respective service level data for the users from which data defining access to data items were received in dependence upon received rating data relating to the received data defining access to data items *(changing the level of service from basic to enhanced or premium based on the pointes accumulated, the points accumulated associate with rating, Page 2, right Col. Part III, Accounting Component, lines 6-7, Fig 4)*; and

providing service to said particular user in dependence on the service level data for said

particular user *(provide the service to the user based on the level of service, Page 4, left Col.*

lines 14-27, Fig 4),

wherein each set of data defining access to a data item has a property having a value

(data associates with the point, and the point correspond to the value, Page 1, right Col. Part II,

lines 3-10), and the service level data comprises a content access value relating to the property

(the service level associates with earned points, the service level corresponds to the access value,

Page 1, right Col. Part II, lines 12-19, Fig 4), wherein the servicing step comprises determining

a sub-set of the data defining access to data in dependence on the respective values *(the service*

provide associates with the data is depend on points collected based on the award component,

Page 4, left Col, lines 14-27, Fig 4,), and providing the sub-set to said particular user *(data*

associates with the corresponding service level is provided to the user, Page 4, left Col., lines

14-17).

Gupta does not explicitly disclose

receiving data defining access to data items from a particular user for provision to

users;

receiving rating data from said particular user relating to data items provided to the users.

However, Moskowitz discloses receiving data defining access to data items from a

particular user for provision to users *(members of the group define whether other user can access*

the data, [0046], lines 4-7);

receiving rating data from said particular user relating to data items provided to the

users*(reviewers are assigned rating by based upon other members, the reviewer and members*

are correspond to the users relating to the data items, [0053], lines 18-30).

It would have been obvious to one skilled in the art at the time of the invention to modify

the user rating techniques of Moskowitz in the data provision method of Gupta in order to

improve communication management within a peer to per network data processing system

(Moskowitz, [0008]).

With respect to claims 2 and 16, Gupta discloses wherein the service level data comprises

a proportion value *(data associates with the point, and the point correspond to the value, Page 1,*

right Col. Part II, lines 3-10), and wherein the servicing step comprises determining a sub-set of

the data items or data defining access to data items corresponding to a proportion of the available

data items or data defining access to data items substantial corresponding to the proportion value

(the service provide associates with the data is depend on points collected based on the award

component, Page 4, left Col, lines 14-27, Fig 4,); and providing the sub-set to the requesting user

(data associates with the corresponding service level is provided to the user, Page 4, left Col.,

lines 14-17).

With respect to claims 3 and 17, Gupta discloses wherein each data item or set of data

defining access to a data item has a property having a value *(data associates with the point, and*

the point correspond to the value, Page 1, right Col. Part II, lines 3-10), and the service level

data comprises a content access value relating to the property *(the service level associates with*

earned points, the service level corresponds to the access value, Page 1, right Col. Part II, lines

12-19, Fig 4), wherein the servicing step comprises determining a sub-set of the data items or

data defining access to data items in dependence on the respective values *(the service provide*

associates with the data is depend on points collected based on the award component, Page 4,

left Col, lines 14-27, Fig 4,), and providing the sub-set to the requesting user *(data associates*

with the corresponding service level is provided to the user, Page 4, left Col., lines 14-17).

       With respect to claims 4 and 18, Gupta does not explicitly disclose wherein the property

values and content access values are times and/or dates.

       However, Moskowitz discloses wherein the property values and content access values are

times and/or dates *(the membership is associated with a period of time, [0037]).*

       It would have been obvious to one skilled in the art at the time of the invention to modify

the user rating techniques of Moskowitz in the data provision method of Gupta in order to

improve communication management within a peer to per network data processing system

(Moskowitz, [0008]).

       With respect to claims 5 and 19, Gupta does not explicitly disclose wherein the property

values and content access values are geographical positions.

       However, Moskowitz discloses wherein the property values and content access values are

geographical positions *(the profile associates with geographical location, [0034], lines 14-19).*

       It would have been obvious to one skilled in the art at the time of the invention to modify

the user rating techniques of Moskowitz in the data provision method of Gupta in order to

improve communication management within a peer to per network data processing system

(Moskowitz, [0008]).

With respect to claims 6 and 20, Gupta discloses wherein the service level data is a

transmission rate value *(peer bandwidth is associated with the point system, Page 1, right Col,*

Part II, lines 7-8), and the servicing step comprises determining a set of data items or data

defining access to data items which meet the request *(the service provide associates with the*

data is depend on points collected based on the award component, Page 4, left Col, lines 14-27,

Fig 4,), and providing the set to the user at a transmission rate in dependence on the transmission

rate value *(data associates with the corresponding service level is provided to the user, Page 4,*

left Col., lines 14-17).

With respect to claims 7 and 21, Gupta discloses wherein the changing step further

comprises receiving requests for specific data items or data defining access to data items from

users *(serve hard to find or unpopular content, Page 1, right Col. Part II, lines 8-10)*, and

changing the service level data for the user from which the requested data item or data defining

access to data was received *(changing the level of service from basic to enhanced or premium*

based on the pointes accumulated, Page 2, right Col. Part III, Accounting Component, lines 6-7,

Fig 2).

With respect to claims 8 and 22, Gupta discloses wherein the changing step further

comprises monitoring the time or date at which a first data item or data defining access to a data

item is received in relation to the time or date a second data item or data defining access to a data

item is received *(keep track of the contribution, which associate with different factors, Page 1,*

right Col. Part II, lines 5-10, Fig 2), and changing the service level data of the user from the

which first data item or data defining access to a data item was received in dependence on the

difference between the times and/or dates *(changing the level of service from basic to enhanced*

or premium based on the pointes accumulated, the points associate with different factors, Page

2, right Col. Part III, Accounting Component, lines 6-7, Fig 2).

        With respect to claims 9 and 23, Gupta discloses wherein the changing step further

comprises monitoring the time since the receipt of a data item or data defining access to a data

item *(keep track of the contribution, which associate with different factors, Page 1, right Col.*

Part II, lines 5-10, Fig 2), and changing the service level data of the user from which the data

item or data defining access to the data item was received in dependence on the monitored

time*(changing the level of service from basic to enhanced or premium based on the pointes*

accumulated, the points associate with different factors, Page 2, right Col. Part III, Accounting

Component, lines 6-7, Fig 2).

        With respect to claims 10 and 24, Gupta disclose the step of permitting a user to perform

manipulations of the stored content items or data defining access to content items in dependence

on the user's service level data *(user can manipulate points collection by unitizing different*

contribution factors, e.g. file size, type of file, Page 1, right Col. Part II, lines 5-10, Fig 2).

With respect to claim 11, Gupta disclose collectively performed by at least a sub-set of peers within a peer to peer network *(Peer to Peer system, Page, Title)*.

With respect to claims 12 and 26, Gupta disclose wherein the rating is weighted according to the service level value of the rating user *(points is weighted according to different factors associating with the user, and the points correspond to the rating, Page 1, right Col. Part II, lines 5-10)*.

With respect to claim 13, Gupta does not explicitly disclose a tangible computer medium containing a computer program or suite of computer programs arranged such that when executed by a computer system or a plurality of computer systems it/they cause the computer system or systems to perform the method of claim 1.

However, Moskowitz discloses a tangible computer medium containing a computer program or suite of computer programs arranged such that when executed by a computer system or a plurality of computer systems it/they cause the computer system or systems to perform the method of claim 1 *(network of data processing system with storage and various of devices, [0021], Fig 1)*.

It would have been obvious to one skilled in the art at the time of the invention to modify the user rating techniques of Moskowitz in the data provision method of Gupta in order to improve communication management within a peer to per network data processing system *(Moskowitz, [0008])*.

Response to Arguments

9.   Applicant's arguments filed on 11/24/2008, with respect to amended claims 11-13, 15-24, 26-27, cancelled claims 14, 25, and newly added claims 28-30 have been fully considered, and are moot in view of the new ground(s) of rejection.

Applicant argues that the claims amendments would overcome the claim objections and rejections made under 35 USC 112, second paragraph in page 12 of the Remarks. However, the amendments filed are unable to overcome the claim objections for lack of antecedent basis and informalities. The amended claims still remained indefinite. See the claim objections and rejection made under 35 USC 112, second paragraph for detail.

Because the claims have amended, further consideration and search were made, and a new reference, Moskowitz, is applied to address the amended claim limitations. Because and Gupta and Moskowitz references both directed to peer to peer computing, and both are from the same field of endeavor, it would have been obvious to one skilled in the art at the time of the invention to combine their teachings to improve communication management.

Therefore, it is believed that all claim limitations have been properly addressed, see the claim analysis above for detail.

Conclusion

10.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

      A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

      Any inquiry concerning this communication or earlier communications from the

examiner should be directed to MICHELLE OWYANG whose telephone number is (571)270-

1254. The examiner can normally be reached on Monday-Friday (Alternate Fridays Off): 8am-

5pm EST.

      If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, TIM VO can be reached on 571-272-3642. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

                                                    /Kuen S Lu/
                                                    Primary Examiner, Art Unit 2169

/M. O./
Examiner, Art Unit 2168